



MEMORANDUM

May 6, 2016

TO: Susan Swift, Director of Community Planning and Development Services

FROM: Sheila Bashiri, Preservation Planner

VIA: Jim Wasilak, Chief of Zoning

SUBJECT: Chestnut Lodge Public Hearing Questions

At the April 25, 2016, public hearing, Councilmember Pierzchala asked that answers to the following questions related to historic preservation be provided at the next meeting. The questions are as follows:

Is the Historic District Commission (HDC) role limited to courtesy reviews on Chestnut Lodge?

Any new construction within the historic district requires review and approval of a Certificate of Approval by the HDC.

In addition, the applicant may request a Courtesy Review prior to submitting an application for a Certificate of Approval. Courtesy reviews are intended to provide guidance to an applicant intending to file a Certificate of Approval application. In this case, the applicant submitted a Courtesy Review application for six townhouses on May 8, 2015, and a revised application for seven townhouses and the modified design on October 15, 2015.

The HDC's role is not limited to courtesy review, but it is frequently an initial step in the eventual Certificate of Approval process. In 2006, the original applicant for the development utilized the courtesy review process for all of the required Certificates of Approval for the other structures within the historic district. The following is an excerpt from the HDC's Rules of Procedure regarding courtesy reviews:

PART 4 PROCEDURES FOR OTHER REVIEWS

- 4.1.1 Upon request by a property owner, the Commission may provide a Courtesy Review of proposed work prior to the formal submission of an application for a Certificate of Approval.

- (a) Notification procedures prescribed for an application for a Certificate of Approval will apply to a Courtesy Review.
- (b) The order of conduct for a Courtesy Review shall follow that of a Certificate of Approval.
- (c) The guidance provided by the Commission shall be advisory, intended to guide the applicant to a Certificate of Approval that follows all applicable guidelines.

Does the HDC have a larger role in the appropriateness of the proposal, and should they weigh in on the significance of the site from a larger perspective?

To date, the applicant has been seeking suggestions for incorporation into the final Certificate of Approval submittal, particularly with respect to architectural details. If the HDC had determined that the design was inappropriate, it would have been reflected in their comments during the Courtesy Reviews.

In the courtesy reviews, the HDC determined that the new construction paid homage to the previous Main Lodge by incorporating design elements from the prior structure into the proposal, and found that it would not “seriously impair” the historic significance of the historic district. The HDC will ultimately make the final determination on the design of the proposed structure in the form of a decision on a Certificate of Approval, should the Mayor and Council approve the Project Plan application. The HDC’s review will be based on the Land Use Article and the Zoning Ordinance. Section 25.7.13 of the Zoning Ordinance is taken into consideration when determining appropriateness.

(b) *Factors for Consideration in Reviewing Application* – In reviewing the plans for any such construction or change, the Historic District Commission will give consideration to:

- i. The effect of the proposed changes on the general character of the designated Historic District, weighing their impacts on the integrity of the structures on the property and the related environmental setting;
- ii. The historic and aesthetic compatibility of the proposed alterations with historically significant structures.

In addition, Chapter 6 of the Chestnut Lodge Design Guidelines will be referenced as it was during the Courtesy Reviews. Specifically, a point-by-point discussion addressing the applicable sections of 6.1- *Site Character Alterations*, 6.4 - *Construction of New Buildings or New Additions to Buildings*, and 6.5 - *Environmental Setting* will occur. As noted in the previous memo regarding “Best Practices,” the HDC reviews new construction on a historic site for its effect on the significance of the site as it exists, not on its past significance. It was also noted in the “Best Practices” memo, that the significance of the Chestnut Lodge property was almost solely based on the lost Main Lodge, which was the primary structure.

In accordance with *Section 4.31, Building Hierarchy*, of the Chestnut Lodge Design Guidelines, building hierarchy is explained as follows:

“The Chestnut Lodge site in the West Montgomery Avenue Historic District has two primary contributing structures and four secondary or accessory structures. Primary structures define the character and use of the site. Secondary or accessory structures contribute to the architectural and historic character and use of the site but do not define it.”

It should also be noted that, under the Maryland Land Use Article, the instruction to HDCs is to treat contributing properties strictly, but non-contributing should be treated with less stringency in terms of applying design review criteria:

§8-304.

- (a) A commission shall strictly judge plans for sites or structures determined by research to be of historic, archaeological, or architectural significance.
- (b) Unless the plans would seriously impair the historic, archaeological, or architectural significance of the surrounding site or structure, a commission may not strictly judge plans:
 - (1) For a site or structure of little historic, archaeological, or architectural significance; or
 - (2) Involving new construction.

What is the staff opinion on the how the Secretary of Interior’s (SOIs) Standards apply?

The City is a Certified Local Government (CLG) per the Maryland Historic Trust and the National Park Service, and has been since 1985. The CLG program allows the local, state, and federal governments to work together in the Federal Preservation Program to help communities save the irreplaceable historic character of places. Through the certification process, communities make a local commitment to historic preservation. This commitment is key to the country’s ability to preserve, protect, and increase awareness of our unique cultural heritage found in the built environment across the country. Recently, John W. Ribaud of the National Park Service’s State, Tribal, and Local Plans & Grants section was asked about how CLGs should use the Secretary of Interior’s Standards and Guidelines. His response was that CLGs *must* use the SOI Standards, while non-CLG local governments are not required to use them.

Elizabeth Hughes, Director of MHT, in response to an inquiry from Kate Kuranda regarding the use of the SOI’s Standards for Reconstruction, included several statements that support staff’s position regarding reconstruction. Ms. Hughes’ letter states that reconstruction “may only be applied successfully when sufficient documentary and physical evidence exists to permit accurate reconstruction with minimal speculation.” She goes on to point out *Standard #4* requires “accurate duplication of historic features and elements substantiated by documentary or physical evidence.”

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“The reconstruction standard provides little flexibility.” Finally, “A high level of documentation is required to meet the standard.”

As such, staff's interpretation of the SOI Standards is strict because is a tried and true method to review historic properties, as it is consistent throughout the nation. Additionally, it is what the City of Rockville agrees to every year to maintain the City's CLG status, as the City submits an annual CLG report and renews our contract with the Maryland Historical Trust and the National Park Service.